



On what sin (and grace) can teach crime

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Abstract

In the Catholic moral tradition, what is expected of the person is that he inform and follow conscience; the person becomes *morally* perfected by responding to his God-given desire for the real and the good. A criminal law shaped by Catholic principles, therefore, would sanction the criminalization not only of (some) intentional wrongs but also of (some) negligent wrongs; it would understand negligence, however, as the person's failure to do his personal best to seek the real and the good. A Catholic criminal law would not purport to demand virtue; it would both call for and respect an individual's conscientious, diligent quest for the good.

Key Words

crime • diligence • individualization • negligence • virtue

A CATHOLIC QUESTION ABOUT CRIMINAL LAW

Life founded upon social contract would be only as difficult to govern as the controlling agreement was difficult to interpret and enforce. What we could legitimately require of each other (as citizens) could be determined through an authoritative interpretation of the governing agreement – resolving as best we could the inevitable hermeneutical conundrums and leaving it at that. If, however, we resist the Siren song of legal fiction and would found our common life on the real in all its amplitude, we must be prepared to go deep and perhaps even high. In a polity committed to reality, the anointed who would say what we can legitimately ask of fellow citizens on pain of our attaching criminality (and consequent punishment) will need to understand human nature. And 'nature', as Gerard Manley Hopkins tells us, 'is never spent' – which is to say nothing of what exceeds but is already knitted into the purely natural, what religious people sometimes mean by the *supernatural*. 'No philosophical pretensions', Jacques Maritain observes in this vein, 'can abrogate the fact that man as we know him is not in a state of pure nature, but of nature at once fallen and redeemed. The first obligation for a philosopher is to recognize what is' (Maritain, 1938: xii). What, then – who, then – is the criminal?